

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

BRIAN HILE,)
)
)
Petitioner,)
v.) Civil Action
) No. 12-3151-CV-S-DW-H
JUAN D. CASTILLO,)
)
)
Respondent.)

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, a pretrial detainee formerly confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus in which he challenges his mental health commitment at the Medical Center. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner's claims are not properly before this Court and otherwise without merit, it will be recommended that he be denied leave to proceed in forma pauperis.

As grounds for relief in habeas corpus, petitioner contends that he has been illegally held beyond the original four-month period for psychological evaluation under 18 U.S.C. § 4241(d), in violation of his constitutional rights. He contends that his Speedy Trial Rights and due process rights have been violated, and that he has been denied effective assistance of counsel. After a Show Cause Order and Response, counsel for petitioner filed a Motion to Withdraw.

A review of the record indicates that petitioner arrived at the Medical Center on December 22, 2011 for psychological evaluation under 18 U.S.C. § 4241(d). He was transferred to the

Metropolitan Correctional Center in San Diego, on approximately March 21, 2012, after doctors at the Medical Center found him competent to stand trial. Petitioner is currently being held pending further proceedings in his underlying criminal case in the Southern District of California. Therefore, the record indicates that petitioner's claim that his commitment exceeded the four-month time limit is without merit. It is apparent that he was not committed to the Medical Center for more than four months for a psychological evaluation. Additionally, any claims he seeks to bring regarding his underlying criminal case should be brought in the Southern District of California.

Because this Court lacks jurisdiction of petitioner's claims, it must be recommended that the petition for habeas corpus relief be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.¹

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petition for a writ of habeas corpus be dismissed without prejudice.

/s/ James C. England
JAMES C. ENGLAND
United States Magistrate

Date: 8/31/12

¹ Petitioner has 14 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.